

John Boehner
Chairman
8th District, Ohio

*House Meets at 2:00 p.m. for Legislative Business
(No Votes Before 5:00 p.m.)*

Anticipated Floor Action:

H.Res. 117—Providing for Consideration of Motions to Suspend the Rules
H.R. 400—21st Century Patent System Improvement Act
H.Con.Res. 8—Sense of Congress Regarding Coral Reef Protection
H.R. 39—African Elephant Conservation Reauthorization Act
H.R. 449—Southern Nevada Public Land Management Act
H.R. 688—Leaking Underground Storage Tank Trust Fund Amendments Act
H.R. 1272—Fire Administration Authorization Act



H.Res. 117—Providing for Consideration of Motions to Suspend the Rules

Floor Situation: The House will consider H.Res. 117 as its first order of business today. The resolution is debatable for one hour and may not be amended.

Summary: H.Res. 117 permits the House to consider bills under suspension of the rules on Wednesday and Thursday, April 23-24. Under House rules, suspensions may be considered only on Monday or Tuesday unless the House adopts a special rule or agrees to a unanimous consent request to consider suspensions later in the week. The resolution requires that any bill which will be considered under suspension of the rules must be announced from the House floor at least one hour before its consideration. Finally, it requires the speaker to consult with the minority leader on any suspension considered under this resolution.



H.R. 400—21st Century Patent System Improvement Act

Floor Situation: The House will continue consideration of H.R. 400 after it completes consideration of H.Res. 117. Last Thursday, the House completed general debate, adopted a manager's amendment by Mr. Coble, and began considering other amendments to the bill under an open rule. The rule grants priority in recognition to members who have their amendments pre-printed in the *Congressional Record*. It allows the chairman of the Committee of the Whole to postpone votes during consideration and reduce the voting time to five minutes for a postponed vote, so long as it follows a regular 15-minute vote. Finally, the rule provides for one motion to recommit, with or without instructions.

Summary: H.R. 400 amends current law governing the U.S. Patent and Trademark Office (PTO) in an effort to modernize the patent filing process for intellectual property created by U.S. inventors, as well as make it more efficient, fair, and secure. The bill was changed by a manager's amendment offered by Mr. Coble, which was approved by voice vote during floor consideration last Thursday. As amended, the bill (1) transfers PTO from the status of government agency to a wholly government-owned corporation; (2) extends provisional infringement protection to patent applicants for their products while they await final patent approval; (3) provides a defense against a lawsuit for patent infringement whenever an inventor of an unpatented idea uses the invention but does not patent it; (4) enhances the rights of inventors to enter formal contracts with marketers, and establishes a cause of action for damages against companies who violate the terms of such contracts; (5) improves procedures by which patent examiners' decisions are reviewed for inventions which are denied patent approval; (6) allows small businesses and independent inventors to forestall their inventions from being immediately published when they apply for a patent; (7) preserves the current Patent and Trademark Office (PTO) practice of charging small businesses and independent inventors a reduced fee for filing a patent application; (8) separates the policy and daily operational functions of PTO; (9) requires that inventors be included as members of the PTO Advisory Board; (10) strikes the PTO's ability to borrow money from private entities to fund its operations; and (11) narrows the limitation on multiple patent re-examination requests from a single inventor to a single proceeding. CBO estimates that enactment will have no significant effect on the federal budget. H.R. 400 was introduced by Mr. Coble and was reported by the Judiciary Committee by voice vote on March 12, 1997.

Views:

Republican Leadership: Supports

Chairman Hyde: Supports

Clinton Administration: Supports

Amendments: At press time, the *Legislative Digest* was aware of the following amendments to H.R. 400:

Mr. Campbell may offer either of two amendments (#1 or #2) to (1) require that patent applicants who file extensions to their applications allow their invention plans to be published after filing the continuation request, and (2) prevent commercial manufacturers of unpatented products from expanding their rights (as agreed to with the inventor) to make the product. The intent of the latter provision is to prevent a manufacturer from taking unfair advantage of an unpatented invention without paying royalties to its owner. **Staff Contact:** *Suhail Khan, x5-2631*

Mr. Forbes may offer one of several amendments (#4-#7) which (1) exempt small businesses and independent inventors from having to publish their patents before receiving a final patent grant, (2) limit the time period during which a party may request a patent re-examination to within nine months after the patent is granted, (3) specify that appointments to the PTO Advisory Board membership must include patent attorneys, examiners, small business representatives, or independent inventors, and (4) establish a patent term of 17 years from the date a patent is granted, or a 20-year term beginning with the date a patent application is filed. *Staff Contact: Mary Valentino, x5-3826*

Mr. Hunter may offer an amendment (#8) to include patent infringement as a crime under Title 18 of the U.S. Code. The amendment outlines punishments of up to (1) five years imprisonment, (2) a \$5 million fine, and (3) a possible order to pay restitution to the patent owner. *Staff Contact: Lorissa Bounds, x5-5672*

Mr. Hunter may offer an amendment (#9) to require that whenever an invention is submitted for a patent, different patent examiners must inspect the invention at each of the three stages of the approval process. The intent of this provision is to ensure that submitted applications are patent-worthy; installing a check-and-balance in the inspection system further solidifies the application process. *Staff Contact: Lorissa Bounds, x5-5672*

Mr. Hunter may offer an amendment in the nature of a substitute (#10) to (1) move the PTO “off-budget,” which prevents its fees from being used to fund other government programs (this provision differs from H.R. 400 in that it does *not* create a government-owned corporation); (2) require patent examiners to spend five percent of their duty time in examiner training, thereby ensuring that they possess the technical expertise necessary to review patent applications; and (3) exempt PTO from federally mandated full-time employee (FTF) requirements, which will enable PTO to hire examiners on a temporary basis, if needed, to effectively manage its caseload. *Staff Contact: Lorissa Bounds, x5-5672*

Additional Information: See *Legislative Digest*, Vol. XXVI, #10, April 18, 1997.



Bills Considered Under Suspension of the Rules

Floor Situation: The House will consider the following five bills under suspension of the rules after it completes consideration of H.R. 400. Each is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

H.Con.Res. 8—Sense of Congress Regarding Coral Reef Protection expresses the sense of Congress to recognize the significance of maintaining the health and stability of coral reef ecosystems by (1) promoting comprehensive stewardship for coral reef ecosystems, (2) encouraging research and education on such ecosystems, and (3) improving the coordination of coral reef activities which take place within federal agencies, academic institutions, nongovernmental organizations, and industry. The bill was introduced by Mr. Saxton and reported by the Resources Committee by voice vote.

H.R. 39—African Elephant Conservation Reauthorization Act reauthorizes the African Elephant Conservation Act through September 30, 2002. The program's authorization currently expires at the end of fiscal year 1998. Enacted in 1988, the African Elephant Conservation Act (1) requires the Interior Secretary to review African elephant conservation programs in each ivory-producing country, (2) establishes an import moratorium on ivory from any country that fails to maintain an adequate elephant conservation program, and (3) authorizes up to \$5 million per year to assist African nations with elephant conservation efforts. CBO estimates that enactment will cost the federal government \$17 million over FYs 1999 through 2002, assuming that the amounts authorized by the bill are appropriated. The bill was introduced by Mr. Young and reported by the Resources Committee by voice vote.

H.R. 449—Southern Nevada Public Land Management Act authorizes the Interior Secretary to sell or exchange approximately 17,000 acres of federal land managed by the Bureau of Land Management (BLM) in Clark County, Nevada, and use part of the proceeds to acquire environmentally sensitive lands in the state of Nevada. Before each parcel of land is sold or exchanged, the bill allows local governments to reserve land for public schools, utilities, or recreational purposes. Finally, the bill authorizes the immediate transfer of certain lands near a local airport in Clark County, if the county requests it. A CBO estimate of H.R. 449 was unavailable at press time. The bill was introduced by Mr. Ensign and reported by the Resources Committee by voice vote.

H.R. 688—Leaking Underground Storage Tank Trust Fund Amendments Act amends the 1986 Solid Waste Disposal Act (*P.L. 99-499*) to require the Environmental Protection Agency (EPA) to distribute 85 percent of the annual federal appropriation provided to the Leaking Underground Storage Tank (LUST) trust fund to the states. It also authorizes new uses of the funds to increase the flexibility and efficiency of states' underground storage tank programs. Specifically, states may use funds appropriated from the LUST Trust Fund to (1) clean up leaks from underground storage tanks; (2) compensate tank owners for the cost of cleanup; and (3) enforce federal underground storage tank standards. The bill prohibits the use of these funds for upgrading existing underground storage systems. CBO estimates that enactment may increase discretionary spending if Congress increases the appropriation for the program's expanded uses. H.R. 688 was introduced by Mr. Schaefer and ordered reported by the Commerce Committee by voice vote.

H.R. 1272—Fire Administration Authorization Act authorizes \$60.1 over two years for the United States Fire Administration (USFA), a three percent increase over the president's two year request and a \$2 million increase over last year. In addition, the bill (1) requires the USFA to notify Congress prior to terminating, transferring, or reorganizing any major function of the agency, (2) prohibits former USFA grantees from reapplying for a grant for five years unless the original award was based on a competitive, merit-based process, and (3) stipulates that no funds authorized by the bill may be used for lobbying purposes. Finally, the bill expresses the sense of Congress that the USFA should give high priority to assessing and correcting all two-digit date-related problems in its computer systems to ensure continued operation in the year 2000. CBO estimates that enactment will result in discretionary outlays of \$81 million over five years. H.R. 1272 was introduced by Mr. Schiff and ordered reported by the Science Committee by voice vote.

Additional Information: See *Legislative Digest*, Vol. XXVI, #10, April 18, 1997.

